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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,069	03/24/2005	Sun Chao Hui	1-36819	2569
43935 7590 08/14/2007 FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551			EXAMINER KIM, SANG K	
			ART UNIT 3654	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,069

Applicant(s)

HUI, SUN CHAO

Examiner

SANG KIM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

Claims 2-3 and 8 are objected to because of the following informalities:

In claim 2, line 4, "a free end" should be --said free end--.

In claim 8, lines 1-3, "a free end" should be --said free end--; "a housing" should be --said housing--.

Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 5 does not constitute a further limitation since the limitation of using a belt connecting to the first sheave and to the second sheave has been recited in claim 1 already.

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said housing" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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Claims 1-2 are indefinite and vague. The phrases, "normally in a fully retracted position," and "normally extracted position," are indefinite and vague. What constitutes the term "normally?"

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decarolis et al., U.S. Patent No. 5820057, in view of Caldwell, U.S. Patent No. 4551847.

Regarding claims 1-6, Decarolis '057 discloses a measuring tape (i.e., which means it has some sort of measuring indicia imprinted on the blade) comprising: A first axis (no reference number assigned); a spool 50 and a first sheave 66 turnable together about said first axis; an elongate flexible blade 52 having a free end 54 and a terminal end (no reference number assigned), the free end adapted to extend out of [a] housing 10, said blade wound upon said spool and normally in a fully retracted position on said spool; a second axis (no reference number assigned); a spiral spring assembly 80 and a second sheave 86 turnable together about said second axis, said spiral spring assembly (e.g. spring) including a spirally wound spring wound [there around] and contained there within so as to wind and unwind about said second axis as said

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second sheave turns; a gear 102 connecting said first sheave 66 and said second sheave 86, whereby extension of said blade 52 from its retracted position causes turning of said spool 50 which in turn causes turning of said spring assembly 80 to place the spring of said spring assembly in a spring wound condition which spring will cause retraction of said blade upon release of said blade from an extended position, see column 1, lines 58-61, and column 3, lines 5-20; and see figures 1-6.

Decarolis '057 uses a gear 102 for transmitting rotation of said first sheave to said second sheave rather than a flexible belt. However, Decarolis '057 recognizes that various connections between the spring motor and blade reel may be utilized, see column 1, lines 16-18.

Caldwell '847 teaches the concept of using a flexible belt 38 to drive the spool and the spring assembly, see figure 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gear of Decarolis '057 with a flexible belt drive as taught by Caldwell '847, to precisely control the drive between the spool and the spring assembly.

Regarding claim 8, as stated above, Decarolis '057 shows the free end 54 of said elongate blade 52 includes a bracket 56 to prevent the passage of the free end into the housing 10, see figure 1 and column 3, lines 5-14.

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Claims 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decarolis et al., U.S. Patent No. 5820057, in view of Quenot et al., U.S. Patent No. 4189107.

Regarding claims 1-6, Decarolis '057 discloses a measuring tape (i.e., which means it has some sort of measuring indicia imprinted on the blade) comprising: A first axis (no reference number assigned); a spool 50 and a first sheave 66 turnable together about said first axis; an elongate flexible blade 52 having a free end 54 and a terminal end (no reference number assigned), the free end adapted to extend out of [a] housing 10, said blade wound upon said spool and normally in a fully retracted position on said spool; a second axis (no reference number assigned); a spiral spring assembly 80 and a second sheave 86 turnable together about said second axis, said spiral spring assembly (e.g. spring) including a spirally wound spring wound [there around] and contained there within so as to wind and unwind about said second axis as said second sheave turns; a gear 102 connecting said first sheave 66 and said second sheave 86, whereby extension of said blade 52 from its retracted position causes turning of said spool 50 which in turn causes turning of said spring assembly 80 to place the spring of said spring assembly in a spring wound condition which spring will cause retraction of said blade upon release of said blade from an extended position, see column 1, lines 58-61, and column 3, lines 5-20; and see figures 1-6.

Decarolis '057 uses a gear 102 for transmitting rotation of said first sheave to said second sheave rather than a flexible belt. However, Decarolis '057 recognizes that

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various connections between the spring motor and blade reel may be utilized, see column 1, lines 16-18.

Quenot '107 teaches the concept of using a flexible belt 138, 128 or gear 143 to drive the spool and the spring assembly, see figures 13-15.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gear of Decarolis '057 with a flexible belt drive as taught by Quenot '107, to precisely control the drive between the spool and the spring assembly and that the gear can be replaced by the belt.

Regarding claim 8, as stated above, Decarolis '057 shows the free end 54 of said elongate blade 52 includes a bracket 56 to prevent the passage of the free end into the housing 10, see figure 1 and column 3, lines 5-14.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Decarolis '057 in view of Caldwell '847 as applied to claim 1 above, and further in view of Lin, U.S. Patent No. 6182916 B1.

Decarolis '057 teaches the concept of facilitate gripping by providing recess to the housing, see column 2, lines 29-34.

Lin '916 shows an elastic protective layer 20 secured to the exterior surface of the housing, see figure 4, and column 2, lines 45-49.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the housing of Decarolis '057 in view of Caldwell '847

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with an elastic protective layer pad as taught by Lin '916, to protect the measuring tape dispenser and prevent the measuring tape dispenser from slipping.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Decarolis '057 in view of Quenot '107 as applied to claim 1 above, and further in view of Lin, U.S. Patent No. 6182916 B1.

Decarolis '057 teaches the concept of facilitate gripping by providing recess to the housing, see column 2, lines 29-34.

Lin '916 shows an elastic protective layer 20 secured to the exterior surface of the housing, see figure 4, and column 2, lines 45-49.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the housing of Decarolis '057 in view of Quenot '107 with an elastic protective layer pad as taught by Lin '916, to protect the measuring tape dispenser and prevent the measuring tape dispenser from slipping.

Response to Arguments

Claims 1-8 have been amended.

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

The added recitation in claim 1, a belt connecting the first sheave and the second sheave necessitated the new grounds of rejection as set forth above. Note, the

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rejection of Decarolis '057 in view of Quenot '107, reaffirms that one having ordinary skill in the art at the time the invention was made can replace the gear with the belt.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 571-272-6947. The examiner can normally be reached Monday through Thursday from 9:00 A.M. to 5:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SK

8/9/07


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